


1099 MISC Filing Requirements for State & Local Governments

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Tax Exempt & Government Entities
Federal, State & Local Governments

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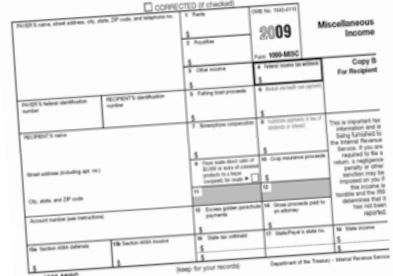

FEDERAL STATE AND LOCAL GOVERNMENTS and PUBLIC ENTITIES WORKING TOGETHER



"HAND IN HAND"



1099 MISC FORM



General Exceptions to Filing Form 1099-MISC

- **Payments to a Corporation**
 - Except Legal or Medical Service Corporations
- **Payments for only merchandise**
 - Examples:
 - Office Supplies
 - Cleaning Supplies



LLC and Reportable payments

- An LLC may be taxed as either a sole proprietorship, a partnership, or a corporation
- Obtain a W-9 from the vendor to determine their status
- Report payments to sole proprietors and partnerships; and, in some cases, to corporations
- Publication 3402, *Tax Issues for Limited Liability Companies*



Form 1099-MISC Box 1 - Rents

- Real estate rentals
(unless paid to Real Estate Agent)
- Equipment Rentals
- Rental assistance payments made to owners of housing projects



Form 1099-MISC

Box 2 - Royalties



- In Box 2 report oil and gas royalties of \$10 or more
 - before reductions for severance and other taxes that may have been withheld and paid

Form 1099-MISC

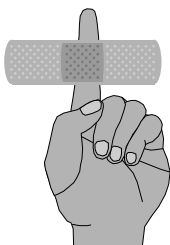
Box 3 - Other Income

- Prizes and awards that are not for services performed.
- Various damage payments that are not considered wages.
- Excess mileage reimbursement over 14 cents per mile for volunteer drivers.



Form 1099-MISC – Box 6

Medical and Healthcare Payments



- Report payments to individuals, partnerships, and corporations.
- Medical payments include doctor fees, drug testing, lab fees, physical therapy, etc.
- * ***Do not report payments to pharmacies or tax exempt hospitals.***

Form 1099- MISC Box 7 – Non-employee Compensation

- *Payment for services of a person who is not your employee,*
- *Fee splits between professionals,*
- *Professional service fees – ex. attorneys (including corporations), architects and accountants, and*
- *Prizes and awards for services performed as a non-employee.*



Independent contractor vs. employee

- **Publication 1779** provides factors used to help determine worker status as either an independent contractor or an employee
- **SS-8** can be filed by firm or worker with Internal Revenue Service to determine worker status



Employees...

Some Factors that may indicate workers are employees:

- **Required to wear uniforms or dress code**
- **Required to work certain hours**
- **Worker doesn't advertise for customers**
- **Agency provides training**
- **Agency provides office space/training room, supplies and materials**
- **Stands no risk of loss**



EMPLOYEES ---- COMMON LAW STANDARD

- Employer-employee relationship exists when the business for which the services are performed has the right to direct and control the worker who performs the services



EMPLOYEES ---- COMMON LAW STANDARD

- When Employer-Employee relationship exists, ALL payments and benefits the employer provides to the employee are compensation and taxable as a wage, unless SPECIFICALLY excluded by law.



Payments to Attorneys

- Proposed Regulation 1.6041-3 codifies the requirement to report payments to attorneys (individuals, partnerships and corporations)
 - gross proceeds, and
 - payments for services of attorneys
- This change became effective for 1998 and later years.



Defining Gross Proceeds



- Gross proceeds are the payments made to an attorney as part of a legal settlement or court order.
- Gross proceeds may be issued in the names of the attorney and the client.
- Gross proceeds may include an amount for the attorney's services.



Reporting Gross Proceeds



- If you can determine the amount of attorney fees included in the gross proceeds:
 - report the fee in Box 7
 - report nothing in Box 14



Reporting Gross Proceeds



- If you cannot determine the attorney fees, report all of gross proceeds in Box 14:
 - report amount paid in this format:
300000.00 (no comma)



ATTORNEYS

- If the attorney isn't an employee, they receive a 1099-Misc for Legal Services regardless if:
 - Sole Proprietor
 - Partnership
 - Corporation
- Attorneys receiving 1099-Misc should not be in your sponsored pension plan.



Form 1099-MISC Boxes 16-18 - State Information

- Box 16 - State income tax withheld
- Box 17 - Abbreviated name of the state
Payer's state identification number
- Box 18 - Amount of the state payment
- Copy 1 - To the state tax department
- Copy 2 - To the recipient



Payments that should not be reported on Form 1099-MISC

- Payments to employees; such as fringe benefits or travel reimbursements

(note: if not paid as part of an accountable plan, travel reimbursements and auto expenses should be included in wages and reported on W-2)
- Generally, payments to corporations



Form 1099-MISC Void Returns

- If you make an error while typing or printing a form,
 - Enter an "X" in the "VOID" box at the top of the form.
 - Go to the next form on the page, or to another page and enter the correct information.
(Do not mark the "CORRECTED" box.)
- Submit the entire page even if only one of the forms on the page is completed correctly.



Form 1099-MISC Corrected Returns

- Enter an "X" in the "Corrected box"
- See pages 6 and 7 of the General Instructions for Forms 1099 to complete corrected returns.
- Step-by-step chart for filing corrected returns on paper forms (up to 249 documents) on page 7.



Form 1099-MISC Due Dates

- To Recipient - January 31st (Copy B)
- To IRS, if filed on paper, by February 28th (Copy A) With Form 1096, Annual Summary and Transmittal of U.S. Information Returns
- If filed electronically, the due date to the IRS is March 31st
- See General Instructions for 1099s at: www.irs.gov for further filing instructions.



Who must file Electronically



- ✓ If you are required to file 250 or more information returns, you must file electronically.
- ✓ Filing requirement applies separately to each type of form.
- ✓ Filing requirement also applies separately to originals and corrections.
- ✓ You may choose electronic filing even if you are not required to file electronically.



Form 1096

- You must submit a separate Form 1096 with each type of form you file by paper.
 - For example, if you file Forms 1098, 1099-A, and 1099-MISC, complete one Form 1096 to transmit Forms 1098, another for Forms 1099-A, and a third for Forms 1099-MISC.



Information Return Penalties

Failure to File Correct Information Returns by the Due Date

May be subject to penalties, if you:

- Fail to file timely
- Fail to furnish to payee timely



IRC Section 6721 Penalty Failure to File by Due Date

- Correctly filed by March 30, \$15/return
- Correctly filed after March 30, but before August 1 \$30/return
- Correctly filed August 1, or later \$50/return



Information Return Penalties Failure to Furnish to Payee IRC 6722

Failure to Furnish Correct Payee Statements

\$50 per statement



Taxpayer Identification Number (TIN) and Certification ~ Form W-9

- Sole proprietor uses SSN
- Corporations, partnerships and estates - use EIN
- LLC - **Name must match with SSN or EIN**
- Certifies TIN is correct
- Payee certifies he/she is not subject to backup withholding or is exempt



Employer Identification Number

- A sole proprietor is not required to have an Employer Identification Number (EIN) unless he or she has a Keogh plan or must file excise or employment tax returns.



TIN Matching Program

- Allows payers or authorized agents who submit Forms 1099-INT, DIV, PATR, OID, MISC and B the capability of submitting an online taxpayer identification (TIN) and name combination to be matched against IRS records.

➤ **Matching completed prior to filing information returns**



TIN MATCHING

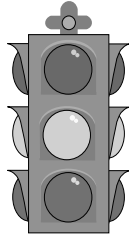
- TIN matching services are available 24 hours a day, 7 days per week
- Access IRS TIN matching by visiting e-services at: www.irs.gov. Registration is required.
- Contact E-Services customer service at:
1-866-255-0654, 7:30 AM to 7:00 PM EST,
Monday-Friday



Are you required to Backup Withhold?

If you make reportable payments to persons (or corporations) who have not furnished their valid TIN

- the withholding rate is 28%



Are you required to Backup Withhold?

- Backup Withholding applies to many payments reported on Form 1099-MISC, some are:
 - box 1 = rents (surface royalties)
 - box 2 = royalties
 - box 7 = NEC (working interest)
- The IRS notifies you to impose Backup Withholding because the payee furnished an incorrect TIN.



When to begin Backup Withholding

- Backup Withholding begins when aggregate payments for the calendar year equal or exceed \$600, or
- **Immediately** if:
 - payee was paid >\$600 in prior year and an information return was issued, or
 - payee was subject to backup withholding in the prior year



How to Report Backup Withholding

- Report withholding to payee and to IRS in Box 4 of Form 1099-MISC.
- This applies even though the amount of the payment may be below the normal threshold for filing Form 1099.
- Send copy A of all paper Forms 1099 to the IRS with Form 1096.



Form 945 Annual Return of Withheld Federal Income Tax

- Form 945 is used to report and pay Backup Withholding to the IRS.
 - **This is an annual return, due 1/31 of the following year.**
 - **Ordinary deposit rules apply.**
(However, see Instructions for Form 945 to determine your deposit schedule)
 - **Make Form 945 deposits separate from Form 941 deposits.**



When to End Backup Withholding

- Failure to Furnish TIN
Withhold on payments made until the TIN is furnished.
- Notice from IRS
Stop withholding within 30 days after you receive a certified Form W-9.



Common Errors

- Failure to obtain identifying information before making payment (use Form W-9)
- Failure to aggregate payments from all expense categories (use vendor files)
- Assuming payee is a corporation because:
 - name is "Company or Associates"
 - an EIN is furnished



Common Errors (continued)

- Remember - some corporate payments require Forms 1099 (medical & attorney).
- Where materials and services are provided, ensure proper allocation or inclusion of materials - see Treasury Regulation 1.6041-1(a)(2).



NO W-9 INFORMATION

- No TIN
- Backup Withhold 28% and File 945
- Don't issue the check
- Get the W-9 information before the job is awarded



RESOURCES

- Form 1099 – *General Instructions*
- Publication 1281 – ***Backup Withholding for Missing and Incorrect Name/TIN(s)***
- **Instructions Form 945** – *Annual Return for Withheld Federal Income Tax*
- Publication 1779 – *Independent Contractor or Employee*



Additional RESOURCES

Web site links:

- Forms/Instructions/Publications:

<http://www.irs.gov/formspubs/index.html>

- Federal, State and Local Governments page at:

<http://www.irs.gov/govt/fslg/index.html>



Questions



QUESTION 1

- Can an employee receive both a W-2 and Form 1099? They operate a separate business and are for their services as part of the other business?



QUESTION 2

- If the payment to an individual includes both parts and labor, how should the payment be reported? And, what if the parts and labor are separately stated and paid together?



QUESTION 3

- If an individual supplies a W-9 as a sole proprietor how should the Form 1099 be completed?



Question 3 Example


☐ UNCORRECTED
 ☒ CORRECTED

PAYOR's name, street address, city, state, ZIP code, and telephone no.		(OMB No. 1545-0045) <div style="text-align: center; font-size: 1.5em; font-weight: bold;">2010</div>	Miscellaneous Income
<div style="font-size: 2em; font-weight: bold;">SSN Example</div>		Form 1099-MISC 3 Other income 4 Federal income tax withheld	
PAYOR's federal identification number	RECIPIENT's identification number XXX-XX-XXXX	5 Filing/basis proceeds 6 Initial net health plan payments	Copy 1 For State Tax Department
RECIPIENT's name John Doe dba/ John Doe Services Street address (including apt. no.) City, state, and ZIP code		7 Nonemployee compensation 8 Substitute payments in lieu of interest or dividend	
Account number (see instructions)		9 Prior made direct sales of 50,000 or more of common products in a large merchant for sale 10 Group insurance proceeds	
11a Section 6050A, delinquent 11b Section 6050A, income		11 12	
13 Excess golden parachute payments		14 Gross proceeds paid to an attorney	
15a Section 6050A, delinquent 15b Section 6050A, income		16 State tax withheld 17 state/Federal's state no.	18 State income
Form 1099-MISC		19 20	21

Department of the Treasury • Internal Revenue Service


QUESTION 4

- **Are deceased employee wages reported on a Form 1099 or W-2?**

The IRS logo is located in the bottom left corner of the slide. It features a stylized eagle with its wings spread, perched on a shield, with the letters "IRS" to its right.

QUESTION 5

- **If I hire a contractor and the fees include reimbursements of travel expenses, how are they reported?**

The IRS logo is located in the bottom left corner of the slide. It features a circular emblem with an eagle and the words "DEPARTMENT OF THE TREASURY" around it, followed by the letters "IRS" in a bold, sans-serif font.

QUESTION 6

- If you have withheld the 28% backup withholding from a vendor's payment, is it ok to refund the money back when the vendor provides their taxpayer identifying number?



QUESTION 7

- Do you get a lot of questions from our customers asking what do I do when the Form W-9 is received back and the customer has checked "exempt payee"?



QUESTION 8

- Are government entities required to file any other type of Form 1099?



QUESTION 9

- How about payments made to election workers? I have customers who have been filing 1099 MISC forms for these type of payments.



QUESTION 10

- What if you receive a Form W-9 and they check the box for a Limited Liability Company and indicate they are a “disregarded entity”? Do they still need a Form 1099 MISC?



RECAP OF PRESENTATION

- Government entities are required to file Form 1099 MISC
- Form W-9 is used to secured Taxpayer Identification Numbers
- Backup Withholding applies at a rate of 28% to vendor payments if you haven't secured a Taxpayer Identification Number prior to payment



RECAP Who Must File Form 1099-MISC?

- Government Entities who have paid:
 - \$10 or more in Royalties or Dividends
 - \$600 or more
 - Rents
 - Services
 - Prizes or awards
 - Medical or health care payments
 - Gross proceeds to an attorney
 - Certain other payments



RECAP FORM W-9

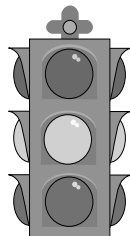
- Provide to every vendor who performs services for your entity.
- Used to obtain an identifying number of a vendor.
- Identifies type of business operation – i.e. Sole Proprietor, LLC, Corporation, Partnership.



RECAP Backup Withholding

If you make reportable payments to persons (or corporations) who have not furnished their valid TIN

- the backup withholding rate is 28%



RECAP NO W-9 INFORMATION

- No TIN
- Backup Withhold 28% and File 945
- Don't issue the check
- Get the W-9 information before the job is awarded



RECAP – Helpful Resources

- www.irs.gov/govts/fslg
educational materials for government entities
- www.irs.gov/formspubs
link to download forms and publications and other education resources



RESOURCES Cont'd

- Publication 15-A – Employer's Supplemental Tax Guide
- Publication 1281 – Backup Withholding for Missing and Incorrect Name/TIN(s)
- General Instructions for Form 1099



RESOURCES Cont'd

- Form 945 Instructions – Annual Return of Withheld Federal Income Tax
- Form 1099 MISC Instructions
- Publication 1779 – Independent Contractor or Employee



USEFUL TELEPHONE NUMBERS

1-827-829-5500
TE/GE toll free tax assistance line

1-800-829-3676
Forms order site

1-866-455-7438
1099 and W-2 Assistance



In Summary:

- We value your comments and would appreciate your feedback on this Webinar at:
tege.FSLG.feedback@irs.gov
- If you have Federal Tax topics for Government Entities for future Webinars, please provide comments at the above e-mail address.